

REFERENCE TITLE: transportation financing; revenue anticipation bonds

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1276

Introduced by
Senator Huppenthal

AN ACT

AMENDING TITLE 28, CHAPTER 21, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7;
RELATING TO REVENUE ANTICIPATION BONDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 28, chapter 21, Arizona Revised Statutes, is amended
3 by adding article 7, to read:

4 ARTICLE 7. REVENUE ANTICIPATION BONDS

5 28-7691. Definition of bonds

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES, "BONDS" MEANS
7 BONDS OF THE BOARD ISSUED PURSUANT TO THIS ARTICLE.

8 28-7691.01. Bond authority

9 A. SUBJECT TO THIS ARTICLE, THE BOARD MAY:

10 1. ISSUE REVENUE ANTICIPATION BONDS. THE BONDS SHALL BE SECURED AS
11 PRESCRIBED BY THE BOARD BASED ON RECOMMENDATIONS OF THE TRANSPORTATION
12 FINANCE COMMITTEE ESTABLISHED BY SECTION 28-7691.15 AND MAY BE AUTHORIZED IN
13 AN AGGREGATE PRINCIPAL AMOUNT OF NOT MORE THAN TWENTY BILLION DOLLARS.

14 2. ISSUE REFUNDING BONDS IF THE BOARD DEEMS REFUNDING EXPEDIENT.

15 3. REFUND ANY BONDS ISSUED BY THE BOARD BY THE ISSUANCE OF NEW BONDS,
16 WHETHER OR NOT THE BONDS TO BE REFUNDED HAVE MATURED.

17 4. ISSUE BONDS PARTLY TO REFUND BONDS THEN OUTSTANDING AND PARTLY FOR
18 ANY PURPOSE CONSISTENT WITH THIS ARTICLE OR AS THE LEGISLATURE MAY AUTHORIZE.

19 5. PROVIDE FOR THE REGISTRATION AS TO THE PRINCIPAL OR BOTH PRINCIPAL
20 AND INTEREST OF THE BONDS.

21 B. REGARDLESS OF WHETHER OR NOT THE BONDS ARE OF SUCH FORM OR
22 CHARACTER AS TO BE NEGOTIABLE INSTRUMENTS UNDER THE TERMS OF THE NEGOTIABLE
23 INSTRUMENTS LAW, THE BONDS ARE FULLY NEGOTIABLE WITHIN THE MEANING OF AND FOR
24 ALL PURPOSES OF THE NEGOTIABLE INSTRUMENTS LAW.

25 28-7691.02. Bond requirements

26 THE BONDS SHALL:

27 1. BE AUTHORIZED BY RESOLUTION OF THE BOARD.

28 2. BEAR SUCH DATE OR DATES AND MATURE AT SUCH TIME OR TIMES, NOT
29 EXCEEDING FIVE YEARS FROM THEIR RESPECTIVE DATES, AS THE RESOLUTION OR
30 RESOLUTIONS MAY PROVIDE.

31 3. BEAR INTEREST AT SUCH RATE OR RATES, INCLUDING RATES THAT MAY VARY
32 FROM TIME TO TIME PURSUANT TO PARAMETERS SET BY THE BOARD IN THE AUTHORIZING
33 RESOLUTION.

34 4. BE IN THE DENOMINATIONS, BE IN THE FORM, EITHER COUPON OR
35 REGISTERED, BE EXECUTED IN THE MANNER, BE PAYABLE IN THE MEDIUM OF PAYMENT AT
36 SUCH PLACE AND BE SUBJECT TO THE TERMS OF REDEMPTION, AT THE OPTION OF EITHER
37 THE BOARD OR THE OWNER OF THE BOND, AS THE RESOLUTION OR RESOLUTIONS PROVIDE.

38 5. BE SOLD AT PUBLIC OR PRIVATE SALE AND ON THE TERMS THE BOARD
39 DETERMINES.

40 28-7691.03. Bond payment; security

41 A. IN CONNECTION WITH THE ISSUANCE OF THE BONDS AUTHORIZED BY THIS
42 ARTICLE OR TO SECURE THE PAYMENT OF THE BONDS AND INTEREST ON THE BONDS, THE
43 BOARD BY RESOLUTION MAY:

1 1. PROVIDE THAT BONDS ISSUED UNDER THIS ARTICLE MAY BE SECURED BY A
2 PLEDGE ON ALL OR ANY PART OF THE MONIES PRESCRIBED BY THE BOARD. THE BOARD
3 MAY:

4 (a) SET THE PRIORITY OF LIEN OR CLAIM OF ANY SERIES OR ISSUE OF BONDS
5 AGAINST ANY OTHER SERIES OR ISSUES.

6 (b) NOT ABROGATE OR CHANGE THE PRIORITY UNLESS THE AFFECTED SERIES OR
7 ISSUE IS TO BE FULLY PAID OR FULLY PROVIDED FOR BY THE ISSUANCE OF REFUNDING
8 BONDS OR THE HOLDERS OF THE BONDS AFFECTED AGREE IN WRITING TO THE CHANGE.

9 2. PLEDGE AND ASSIGN TO OR IN TRUST WITH A TRUSTEE APPOINTED BY THE
10 BOARD FOR THE BENEFIT OF THE HOLDER OR THE HOLDERS OF THE BONDS ANY PART OF
11 THE MONIES AS WILL BE NECESSARY TO PAY THE PRINCIPAL OF AND INTEREST ON THE
12 BONDS AS THE PRINCIPAL AND INTEREST BECOME DUE.

13 3. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING FUNDS.

14 4. PROVIDE THAT SUFFICIENT AMOUNTS OF THE PROCEEDS FROM THE SALE OF
15 THE BONDS MAY BE USED TO FULLY OR PARTLY FUND ALL RESERVES OR SINKING FUNDS
16 SET UP BY THE BOND RESOLUTION.

17 5. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF A CONTRACT
18 WITH BONDHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF BONDS THE HOLDERS
19 OF WHICH MUST CONSENT TO AND THE MANNER IN WHICH THE CONSENT MAY BE GIVEN.

20 6. PROVIDE FOR PAYMENT FROM THE PROCEEDS OF THE SALE OF THE BONDS OF
21 ALL FEES, CHARGES AND BOND RELATED EXPENSES OR OBLIGATIONS INCURRED BY THE
22 BOARD IN THE ISSUANCE, SALE, DELIVERY AND PAYMENT OF THE BONDS.

23 7. DO ANY OTHER MATTERS, OF LIKE OR DIFFERENT CHARACTER, THAT MAY IN
24 ANY WAY AFFECT THE SECURITY AND PROTECTION OF THE BONDS.

25 B. A PLEDGE MADE PURSUANT TO THIS ARTICLE IS VALID AND BINDING FROM
26 THE TIME WHEN THE PLEDGE IS MADE.

27 C. THE MONIES PLEDGED PURSUANT TO THIS ARTICLE ARE IMMEDIATELY SUBJECT
28 TO THE LIEN OF THE PLEDGE WITHOUT ANY FUTURE PHYSICAL DELIVERY OR FURTHER
29 ACT, AND ANY LIEN OF ANY PLEDGE IS VALID OR BINDING AGAINST ALL PARTIES
30 HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT OR OTHERWISE AGAINST THE BOARD
31 REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN OR PLEDGE. WHEN
32 PLACED IN THE RECORDS OF THE BOARD, THE OFFICIAL RESOLUTION OR TRUST
33 INDENTURE OR ANY INSTRUMENT BY WHICH THIS PLEDGE IS CREATED IS NOTICE TO ALL
34 CONCERNED OF THE CREATION OF THE PLEDGE, AND THESE INSTRUMENTS ARE NOT
35 REQUIRED TO BE RECORDED IN ANY OTHER PLACE.

36 28-7691.04. Liability; bond validity

37 A. THE MEMBERS OF THE BOARD OR A PERSON EXECUTING THE BONDS AUTHORIZED
38 BY THIS ARTICLE IS NOT PERSONALLY LIABLE FOR THE PAYMENT OF THE BONDS.

39 B. THE BONDS ARE VALID AND BINDING OBLIGATIONS OF THE BOARD
40 NOTWITHSTANDING THE FACT THAT BEFORE THE DELIVERY OF THE BONDS ANY OF THE
41 OFFICERS WHOSE SIGNATURES APPEAR ON THE BONDS CEASE TO BE OFFICERS OF THE
42 BOARD.

43 C. FROM AND AFTER THE SALE AND DELIVERY OF THE BONDS, THE BONDS ARE
44 INCONTESTABLE BY THE BOARD OR DEPARTMENT.

1 28-7691.05. Bond purchase

2 THE BOARD MAY PURCHASE BONDS AUTHORIZED BY THIS ARTICLE OUT OF ANY
3 MONIES AVAILABLE, AND THESE BONDS MAY THEN BE CANCELED, AT A PRICE OF NOT
4 MORE THAN EITHER OF THE FOLLOWING:

5 1. IF THE BONDS ARE THEN REDEEMABLE, THE PRICE THEN APPLICABLE PLUS
6 ACCRUED INTEREST TO THE NEXT INTEREST PAYMENT DATE ON THE BONDS.

7 2. IF THE BONDS ARE NOT THEN REDEEMABLE, THE REDEMPTION PRICE
8 APPLICABLE ON THE FIRST DATE AFTER THE PURCHASE ON WHICH THE BONDS BECOME
9 SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO THAT DATE.

10 28-7691.06. Notice; bond issuance

11 A. THE BOARD SHALL PUBLISH A NOTICE OF ITS INTENTION TO ISSUE BONDS
12 UNDER THIS ARTICLE FOR AT LEAST FIVE CONSECUTIVE DAYS. THE LAST DAY OF
13 PUBLICATION SHALL BE AT LEAST TEN DAYS BEFORE THE ISSUANCE OF THE BONDS.

14 B. THE NOTICE SHALL STATE THE AMOUNT OF THE BONDS TO BE SOLD AND THE
15 INTENDED DATE OF ISSUANCE.

16 28-7691.07. Bond proceeds; distribution; expenditures

17 A. AFTER DEDUCTING THE NECESSARY COSTS AND EXPENSES OF THE ISSUANCE
18 AND SALE OF THE BONDS AND ANY AMOUNTS NECESSARY TO PROVIDE FOR THE PAYMENT OF
19 REFUNDED BONDS, THE DEPARTMENT SHALL FIRST APPLY THOSE AMOUNTS OF THE BOND
20 PROCEEDS PROVIDED IN THE RESOLUTION ISSUING THE BONDS TO ALL RESERVE AND
21 SINKING FUNDS CREATED IN THE BOND RESOLUTION.

22 B. THE BOARD SHALL USE THE BOND PROCEEDS SOLELY FOR THE PURPOSES
23 PROVIDED IN THE BOND RESOLUTION, EXCEPT THAT, IF THE REVENUES PLEDGED TO
24 SECURE THE BONDS EVER BECOME INSUFFICIENT TO PAY THE ANNUAL PRINCIPAL AND
25 INTEREST ON THE BONDS, THE BOARD SHALL ORDER:

26 1. THE LIQUIDATION OF ANY PERMITTED INVESTMENTS REMAINING IN THE BOND
27 PROCEEDS ACCOUNT.

28 2. THE STATE TREASURER TO APPLY ALL OF THE RECEIPTS AS NECESSARY TO
29 MAKE CURRENT ALL PAYMENTS THEN DUE ON THE BONDS.

30 28-7691.08. Agreement of state

31 A. THIS STATE PLEDGES TO AND AGREES WITH THE HOLDERS OF THE BONDS THAT
32 THIS STATE WILL NOT LIMIT OR ALTER THE RIGHTS VESTED IN THE BOARD TO COLLECT
33 THE FEES, EXCISES AND TAXES AS MAY BE NECESSARY TO PRODUCE SUFFICIENT REVENUE
34 TO FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH THE HOLDERS OF THE BONDS OR
35 IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF THE BONDHOLDERS, UNTIL ALL BONDS
36 ISSUED UNDER THIS ARTICLE, INTEREST ON THE BONDS, INTEREST ON ANY UNPAID
37 INSTALLMENTS OF INTEREST AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY
38 ACTION OR PROCEEDINGS BY OR ON BEHALF OF THE BONDHOLDERS ARE FULLY MET AND
39 DISCHARGED.

40 B. THE BOARD AS AGENT FOR THIS STATE MAY INCLUDE THIS PLEDGE AND
41 UNDERTAKING BY THIS STATE IN ITS RESOLUTIONS AND INDENTURES SECURING ITS
42 BONDS.

43 28-7691.09. Taxation exemption

44 THE BOARD IS REGARDED AS PERFORMING A GOVERNMENTAL FUNCTION IN CARRYING
45 OUT THE PURPOSES OF THIS ARTICLE AND IS NOT REQUIRED TO PAY TAXES OR

ASSESSMENTS ON ANY OF THE PROPERTY ACQUIRED OR CONSTRUCTED OR ON THE ACTIVITIES OF THE BOARD IN MAINTAINING AND CARING FOR THE REAL PROPERTY OR IN THE MONIES DERIVED FROM THE REAL PROPERTY. THE BONDS ISSUED UNDER THIS ARTICLE, THEIR TRANSFER AND THE INCOME FROM THE BONDS ARE AT ALL TIMES FREE FROM TAXATION IN THIS STATE.

28-7691.10. Attorney general bond certification

A. THE BOARD MAY SUBMIT TO THE ATTORNEY GENERAL ANY BONDS TO BE ISSUED UNDER THIS ARTICLE AFTER ALL PROCEEDINGS FOR THE AUTHORIZATION OF THE BONDS HAVE BEEN TAKEN. ON THE SUBMISSION OF THE PROCEEDINGS TO THE ATTORNEY GENERAL, THE ATTORNEY GENERAL SHALL INVESTIGATE AND DETERMINE THE VALIDITY OF THE BONDS AND THE REGULARITY OF ALL PROCEEDINGS IN CONNECTION WITH THE ISSUANCE.

B. IF THE PROCEEDINGS CONFORM TO THIS ARTICLE AND IF IT IS DETERMINED THAT THE BONDS WHEN DELIVERED AND PAID FOR WILL CONSTITUTE BINDING AND LEGAL OBLIGATIONS OF THE BOARD ENFORCEABLE ACCORDING TO THE TERMS OF THE BONDS, THE ATTORNEY GENERAL SHALL CERTIFY IN SUBSTANCE ON THE BACK OF EACH OF THE BONDS THAT IT IS ISSUED IN ACCORDANCE WITH THE CONSTITUTION AND LAWS OF THIS STATE.

28-7691.11. Bond obligations of the board

BONDS ISSUED PURSUANT TO THIS ARTICLE:

1. ARE OBLIGATIONS OF THE BOARD.
2. ARE PAYABLE ONLY PURSUANT TO THE TERMS OF THE BONDS.
3. ARE NOT OBLIGATIONS GENERAL, SPECIAL OR OTHERWISE OF THIS STATE.
4. ARE NOT A LEGAL DEBT OF THIS STATE.
5. ARE NOT ENFORCEABLE AGAINST THIS STATE OUT OF ANY MONIES OTHER THAN THE INCOME AND REVENUE PLEDGED AND ASSIGNED TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS.

28-7691.12. Bonds: legal investments

BONDS ISSUED UNDER THIS ARTICLE ARE MADE SECURITIES:

1. IN WHICH ALL OF THE FOLLOWING MAY PROPERLY AND LEGALLY INVEST MONIES INCLUDING CAPITAL IN THEIR CONTROL OR BELONGING TO THEM:

- (a) PUBLIC OFFICERS AND BODIES OF THIS STATE.
- (b) POLITICAL SUBDIVISIONS OF THIS STATE.
- (c) INSURANCE COMPANIES AND ASSOCIATIONS AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS.
- (d) BANKS, BANKERS, TRUST COMPANIES, SAVINGS BANKS AND SAVINGS ASSOCIATIONS, INCLUDING SAVINGS AND LOAN ASSOCIATIONS, BUILDING AND LOAN ASSOCIATIONS, INVESTMENT COMPANIES AND OTHER PERSONS CARRYING ON A BANKING BUSINESS.

(e) ADMINISTRATORS, GUARDIANS, EXECUTORS, TRUSTEES AND OTHER FIDUCIARIES.

(f) OTHER PERSONS AUTHORIZED TO INVEST IN BONDS OR OTHER OBLIGATIONS OF THIS STATE.

2. THAT MAY BE DEPOSITED WITH AND MAY BE RECEIVED BY ALL PUBLIC OFFICERS AND BODIES OF THIS STATE AND ALL POLITICAL SUBDIVISIONS OF THIS

1 STATE FOR ANY PURPOSE FOR WHICH THE DEPOSIT OF BONDS OR OTHER OBLIGATIONS OF
2 THIS STATE IS AUTHORIZED.

3 28-7691.13. Bond payment

4 THE REPAYMENT SCHEDULE OF THE BONDS SHALL BE PHASED IN AT TWENTY PER
5 CENT PER YEAR.

6 28-7691.14. Sale of bonds: use of proceeds

7 A. THE REVENUE ANTICIPATION BONDS SHALL BE SOLD TO THE HIGHEST BIDDER
8 WHO MEETS THE CONDITIONS IMPOSED BY THE DIRECTOR BUT SHALL NOT BE SOLD AT
9 LESS THAN PAR.

10 B. WHEN THE ISSUANCE AND SALE OF ANY BONDS HAVE BEEN COMPLETED, THE
11 TREASURER SHALL IMMEDIATELY CALL IN AND PAY FROM THE PROCEEDS OF THE SALE ALL
12 STATE WARRANTS REGISTERED AND ACCUMULATED AT SUCH DATE OR OTHERWISE.

13 C. THE PROCEEDS OF THE BONDS SHALL BE USED IN THE FOLLOWING AMOUNTS
14 SOLELY FOR THE FOLLOWING PURPOSES:

15 1. THREE BILLION DOLLARS TO BE DISTRIBUTED TO CORRIDORS WITH HIGH
16 TRAFFIC VOLUME FOR TRAFFIC CAPITAL IMPROVEMENTS.

17 2. THREE BILLION DOLLARS TO BE DISTRIBUTED FOR TRANSPORTATION
18 IMPROVEMENTS ON HIGHWAYS BASED ON THE RATIO OF THE NUMBER OF VEHICLES ON THE
19 HIGHWAY TO THE VEHICLE CAPACITY OF THE HIGHWAY.

20 3. THREE BILLION DOLLARS TO BE DISTRIBUTED TO CITIES AND TOWNS BASED
21 ON POPULATION TO IMPROVE STREETS AND INTERSECTION TRAFFIC FLOWS. THE CITY OR
22 TOWN MUST SHOW THAT IT IS MAINTAINING A LOCAL EFFORT IN STREET IMPROVEMENT
23 AND INTERSECTION TRAFFIC FLOW IMPROVEMENT. THE MONIES ALLOCATED PURSUANT TO
24 THIS PARAGRAPH SHALL SUPPLEMENT AND NOT SUPPLANT EXISTING LOCAL MONIES.

25 4. THREE BILLION DOLLARS TO BE DISTRIBUTED TO A COST EFFICIENT MASS
26 TRANSIT METHOD AS MEASURED BY DOLLARS PER NET PASSENGER MILE OVER A LIFETIME
27 OF INVESTMENT.

28 5. EIGHT BILLION DOLLARS TO BE DISTRIBUTED TO PERSONS PURSUANT TO A
29 PUBLIC BIDDING PROCESS. NO MORE THAN ONE HUNDRED SIXTY MILLION DOLLARS MAY
30 BE UP FOR BID AT ANY ONE TIME. AWARDS SHALL BE MADE TO THE PERSON FUNDING A
31 TRANSPORTATION PROJECT WITH THE LEAST COST PER PASSENGER MILE. BEFORE AN
32 AWARD IS MADE THERE SHALL BE A SERIES OF BIDS. ANY PERSON MAY PARTICIPATE IN
33 AN INITIAL BIDDING ROUND BUT IN ORDER TO PARTICIPATE IN A SUBSEQUENT BIDDING
34 ROUND FOR THE SAME AWARD, THE BIDDER MUST HAVE BID IN THE PRIOR BIDDING
35 ROUND. A BIDDER MAY IMPROVE THE BIDDER'S BID IN THE SUBSEQUENT BIDDING
36 ROUND. DOLLARS PER PASSENGER MILE FOR THE PROJECT MUST DECREASE BY AT LEAST
37 FIVE PER CENT IN EACH SUBSEQUENT BIDDING ROUND OR THE BIDDING ENDS. THE
38 BIDDING CONTINUES IN THIS FORMAT UNTIL EACH EFFICIENCY GAIN ENDS. BIDS ARE
39 ONLY ALLOWED IF THERE IS AT LEAST ONE DOLLAR OF LOCAL EFFORT FOR EVERY ONE
40 DOLLAR TO BE DISTRIBUTED. BIDS MAY INCLUDE MONIES, LANDS AND OTHER
41 COMPENSATION. COMPLEX BIDDING MAY OCCUR WHERE THE BIDDER INCLUDES SEVERAL
42 DIFFERENT ITEMS IN THE BID. IN ORDER TO EVALUATE EACH BID, WHEN NECESSARY
43 THE DEPARTMENT SHALL CAUSE AN APPRAISAL TO BE CONDUCTED OF THE ITEMS IN THE
44 BID SUCH AS LAND AND RIGHTS-OF-WAY.

28-7691.15. Transportation finance committee: duties

A. THE TRANSPORTATION FINANCE COMMITTEE IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

1. THREE MEMBERS WHO ARE APPOINTED BY THE GOVERNOR.

2. THREE MEMBERS WHO ARE APPOINTED BY THE PRESIDENT OF THE SENATE. NOT MORE THAN TWO OF THESE MEMBERS SHALL BE MEMBERS OF THE SAME POLITICAL PARTY.

3. THREE MEMBERS WHO ARE APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. NOT MORE THAN TWO OF THESE MEMBERS SHALL BE MEMBERS OF THE SAME POLITICAL PARTY.

B. THE TRANSPORTATION FINANCE COMMITTEE MAY RECOMMEND TO THE BOARD THE SOURCE OF TAXATION TO SECURE PAYMENT OF BONDS ISSUED PURSUANT TO THIS ARTICLE.